

Application No.: 10/806,584
Docket No.: HT3985USNA

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REMARKS

Reconsideration is respectfully requested of the position set forth in the last Office communication.

In the present amendment, the previous wording of "is capable of increasing" has been replaced by -- increases --. Thus, a positive recitation is present in all claims under prosecution. Claim 15, which did not recite an increase limitation of thickness, and non-elected claims 13-14 and 16-19 (directed to a method have been cancelled). Claims 1-12 remain under prosecution.

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REQUEST FOR CONSIDERATION OF PUBLICATIONS
NOT CONSIDERED
IN LAST OFFICE COMMUNICATION

Accompanying the present amendment is a Supplemental Information Disclosure Statement citing publications not considered in the last Office communication.

Accordingly, a request is for these publications to be considered in examination of the present claims under prosecution.

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DOUBLE PATENTING REJECTION

All claims under prosecution stand rejected based on obviousness-type double patenting based on claims in Application No. 11/023,153. The Office rejection states:

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are obvious variants over one another.

This rejection is respectfully traversed on the grounds the Office position is unsupported. Application No. 11/023,153 has a requirement in its claims of the fabric having ridges and grooves, which requirement is absent in the present claims under prosecution. Therefore, patentably distinct inventions are present.

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REJECTIONS UNDER 35 USC 103(a)

All claims under prosecution stand rejected under 35 USC 103(a) based on Erb, Jr. et al. US 2002/0182967 in view of Matsuda US 5,316,834 and Assink et al. US 2004/0028958.

In response, the publications alone or in combination do not disclose and do not render obvious a requirement wherein the claimed fabric upon exposure to heat or flame "increases the thickness by at least three times". Claim 3 has a requirement for increasing its thickness by ten times.

The Office rejection sets forth over the primary Erb, Jr. publication:

Erb, Jr. fails to disclose that the paramid fibers are crimped and that the paramid fibers are held in a compressed state by a thermoplastic binder.

Yet the claimed requirement of use of a crimped heat-resistant organic fiber held in place by a thermoplastic binder is critical to applicants' invention in conjunction with the fabric increasing its thickness by at least three times upon exposure to heat or flame. Therefore, the rejection is predicated on making an article outside the scope of Erb, Jr. Accordingly, the rejection must immediately fail.

To cure the deficiency of Erb, Jr., the following Office conclusion is present:

It would have been obvious to have used Matsuda's crimping process on the fibers of Erb, Jr. et al. and Assink et al., motivated by the desire to create a fabric that is lightweight and has excellent mechanical properties. It also would have been obvious to have used Assink's polyester fiber binder or polyester powder binder on the fabric of Erb, Jr. et al. and Matsuda et al., motivated by the desire to create a fabric having greater strength and load-bearing properties.

Again, it is applicants' position that one of ordinary skill in the art would not create a fabric having greater strength and load-bearing properties, and inherently arrive at a fabric which increases into thickness by at least three-fold upon exposure to heat or flame.

Also, it is noted that Matsuda is directed to a "Fiber-Reinforced Thermoplastic Sheet" as evidenced by its Title and Abstract. A sheet is non-analogous to a fabric of the primary Erb, Jr. publication, and accordingly must fail in a combination of publications.

All claims under prosecution stand rejected under 35 USC 103(a) based on Comer US 2003/0232560 in combination with the previously discussed Matsuda et al. and Assink et al. publications.

The previous remarks opposite Erb, Jr. are likewise applicable for Comer and accordingly incorporated by reference. Briefly, the combination would not inherently form a

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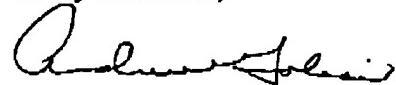
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fabric having the required increase in thickness. Also, Matsuda directed to a sheet and Comer to a fabric represent non-analogous publications which cannot be combined.

In summary, a request has been made for additional publications to be considered in examination of this patent application. The rejections of record have been traversed.

Removal of all grounds of rejection is requested. A notice of allowance is solicited.

Respectfully submitted,



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Dated: November 23, 2005